

Amend 2 Cal. Code Regs., Section 18950.1 to read:

§ 18950.1. Exception: Payments for Travel Made in Conjunction with Official Agency

Business.

This regulation identifies certain travel payments that do not confer a personal benefit on an official and sets forth the terms under which these travel payments, when made by a source other than a source identified in Regulation 18950(c)(2), are for the purpose of facilitating the public's business and are therefore not gifts or income because the payment is made for an official agency purpose in lieu of a payment using agency funds. For purposes of this regulation, "government employer" means the state agency as defined in Section 82049 or any local government agency, or any subdivision, department, division, bureau, office board, or commission of the foregoing as defined in Section 82041, who directs the employee in the performance of ~~his or her~~ the employee's governmental duties.

(a) This regulation applies solely to a travel payment that meets all of the following requirements:

(1) The payment is made directly to or coordinated with the government employer as set forth in subdivision (b) below and not made to the employee using the travel;

(2) The payment is used for official agency business as specified in subdivision (c) below;

(3) The government employer determines the official who will make use of the payment as provided in subdivision (d) below;

(4) The payment provides no personal benefit to the official who makes use of the payment as provided in subdivision (e) below;

1 (5) The duration of the travel is limited to that necessary to accomplish the purposes for
2 which the travel was provided as determined by the governmental employer using the same
3 standards imposed for travel paid with government funds.

4 (6) The government employer reports the payment as provided in subdivision (f) below.

5 (b) The payment must be made directly to the government employer or by arranging with
6 the government employer any payments for transportation and lodging that are made directly to
7 the provider of those services. Food may be accepted for attendance at an event where food is
8 provided as part of the admission to the event. All other payments for food must be made to the
9 government employer pursuant to the employer's per diem travel policy.

10 (c) The payment is used for official agency business when made under any of the
11 following circumstances:

12 (1) The payment is made pursuant to a provision in a contract that requires the
13 contracting party to pay any expenses associated with any required governmental travel resulting
14 from the governmental agency's participation in the contract and the payment is used for that
15 purpose.

16 (2) The payment is made for the travel expenses of an official for the purpose of
17 performing a regulatory inspection or auditing function that the governmental employer is
18 mandated to perform.

19 (3) The payment is made for the travel expenses of an official and the official is attending
20 solely for purposes of providing training or educational information directly related to the
21 governmental employer's functions or duties under the laws that it administers for individuals
22 who are affected by those laws, and the payment is made by an organization to provide such
23 training for its members.

1 (4) The payment is made for the travel expenses of an official to an educational
2 conference directly related to the governmental employer's functions or duties under the laws
3 that it administers, the official is a named presenter at the conference, and the payment is made
4 by the organizers of the event.

5 (5) The payment is made for the travel expenses of an official for the purpose of
6 receiving training directly related to the official's job duties and the payment is provided by an
7 organization that commonly provides such training.

8 (6) The payment is made for food provided to all attendees at a working group meeting in
9 which the agency official participates as a representative of ~~his or her~~ the official's agency in a
10 working group meeting under ~~his or her~~ officially assigned job duties and the agency is
11 authorized to provide an official to attend the meeting.

12 (7) The payment is for travel expenses that are required to attend a location to view an in
13 place operation, structure, facility, or available product where the viewing would substantially
14 enhance an official's knowledge and understanding in making an informed decision to enter into
15 a contract regarding a similar operation, structure, facility or purchase the product pursuant to the
16 jurisdictional authority of the official's governmental employer.

17 (d) The governmental employer shall select the official who will make use of the
18 payment. If the payment is for expenses related to an oral presentation to either provide training
19 on a subject on which the governmental employer provides training, or discuss policy and
20 direction in implementing the functions of the governmental employer, the donor may request
21 the official who is most qualified to make the presentation.

1 (e) A payment made under any of the provisions of this regulation does not provide a
2 personal benefit and is not a gift to the official who uses the payment, provided the payment
3 complies with the following provisions:

4 (1) The travel is for purposes approved by the governmental employer under the same
5 requirements applicable to travel using its own funds, and the official is representing ~~his or her~~
6 the governmental employer in the course and scope of his or her the official's duties.

7 (2) Except as provided in subdivisions (b) and (g), the travel expenses are limited to no
8 more than the expenses allowable for travel for agency business that would reasonably be paid at
9 agency expense.

10 (f) The payment is reported on a form prescribed by the Commission and maintained by
11 the governmental employer as a public record subject to inspection and copying under Section
12 81008(a) and signed by the authorizing official. Additionally, within 30 days after the end of a
13 quarter year in which aggregated travel payment received by the governmental employer since
14 the last required filing totaling \$2,500 or more, a copy of the form(s) or a summary of the
15 information must be filed with the Commission (or, in the case of the Commission, the office of
16 the Attorney General). If the governmental employer maintains a website, it shall also post a
17 copy of the form or a summary of the information on the form on its website in a prominent
18 fashion. A local jurisdiction may require additional filing at the local level for agencies within its
19 jurisdiction. The form, or summary of information, must include the following information:

20 (1) A date the travel occurred and an itemized breakdown of the amount paid for
21 transportation, lodging, and food.

22 (2) The name of the transportation provider, the type of transportation, and the name of
23 the business where the lodging was provided.

1 (3) The location of the travel.

2 (4) The name and address of the donor. If the donor is not an individual, the report must
3 also describe the business activity, or the nature and interests of the donor. If the donor raised
4 funds from another person for the specific purpose of making the payment to the agency, the
5 report must contain the name of each person and the amount given by each person.

6 (5) The purpose of the travel, and department and position or title of the official who used
7 the payment and the name of any elected or appointed official who uses the payment.

8 (g) Nothing contained herein shall restrict a payment for any lodging or food if the
9 lodging and food is provided at a site where the official attends a widely attended meeting or
10 conference and the value is substantially equivalent in value to the lodging or food typically
11 made available to the other attendees.

12 (h) Limitations on Application of this Regulation. The exception for a travel payment
13 provided under this regulation does not apply if the payment is made for travel by:

14 (1) A state or local elected officer as defined in Section 82020, or an official specified in
15 Section 87200, unless the transportation, lodging, and food is directly related to the official's
16 public duties, is for a purpose that would otherwise be paid for with the agency's funds, is
17 authorized in the same manner as transportation, lodging, and food using the agency's own funds,
18 and otherwise meets the requirements of subdivision (a) of this regulation.

19 (2) Acceptance of a pass or discount from a transportation company by a public official
20 prohibited under Article XII, Section 7 of the California Constitution.

21 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028, 82030,
22 82044, 87100, 87103, 87207, 87302 and 89501-89506, Government Code.